



In the Matter of:

**U.S. DEPARTMENT OF LABOR,
ADMINISTRATOR, WAGE & HOUR
DIVISION, EMPLOYMENT STANDARDS
ADMINISTRATION,**

**ARB CASE NOS. 01-080
 01-084**

ALJ CASE NO. 2001-LCA-8

PETITIONER,

DATE: September 28, 2001

v.

**PRISM ENTERPRISES OF CENTRAL
FLORIDA, INC., d/b/a FUTURE
AUTOMATION,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER DENYING REVIEW AND GRANTING
MOTION FOR REVISED BRIEFING SCHEDULE**

On August 1, 2001, we issued a Notice of Petition for Review and Order Establishing Briefing Schedule, requiring the parties to file briefs in support of their petitions for review on or before September 4, 2001. On September 20, 2001, sixteen days after the opening briefs were due, Prism Enterprises of Central Florida, Inc., d/b/a Future Automation ("Prism") moved for leave to file its brief in Case No. 01-084, 30 days late. The reason given by Prism for its failure to file its opening brief in a timely manner is that its "attorney inadvertently overlooked the deadline."

The Acting Administrator opposes Prism's motion to file its opening brief after the required filing date. Because Prism has failed to demonstrate good cause for its failure to adhere to the Board's briefing order, we **DENY** its motion for leave to file a brief in support of its petition for review. *Accord Geiserman v. MacDonald*, 893 F.2d 787, 791 (5th Cir. 1990) ("a scheduling mistake in counsel's office is not the type of satisfactory explanation for which relief may be granted"). Furthermore, the Board will not consider the issues raised in Prism's petition for review because, in the absence of a timely filed brief, neither legal argument nor legal authority has been presented to support Prism's position. Accordingly, the notice of our determination to review, issued in Case No. 01-084, is withdrawn, and this matter is **CLOSED**.

Prism has also moved for a 14-day extension of time in which to respond to the Acting Administrator's brief in Case No. 01-080. The Acting Administrator does not oppose this motion. The motion is **GRANTED**.

Accordingly, **on or before October 18, 2001**, Respondent Prism and interested persons may file a response brief – not to exceed thirty (30) double-spaced pages – in opposition to the Acting Administrator's Petition for Review and brief.

On or before November 2, 2001, the Acting Administrator and interested persons may file a rebuttal brief, addressed exclusively to the issues raised in the response brief and not to exceed fifteen (15) double-spaced pages.

All motions and other requests for extraordinary action by the Board (including, but not limited to, requests for extensions of time or expansion of page limitations) shall be in the form of a motion appropriately captioned, titled, formatted and signed, consistent with customary practice before a court. See, e.g., Fed. R. Civ. P. 7(b).

All pleadings, briefs and motions should be prepared in Courier (or typographic scalable) 12 point, 10 character-per-inch type or larger, double-spaced with minimum one inch left and right margins and minimum 1¼ inch top and bottom margins, printed on 8½ by 11 inch paper, and are expected to conform to the stated page limitations unless prior approval of the Board has been granted.

An original and four copies of all pleadings and briefs shall be filed with the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4309, Washington, D.C., 20210.

SO ORDERED.

PAUL GREENBERG
Chair

RICHARD A. BEVERLY
Alternate Member